

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5914 of 2017**

G. C. Nahata S/o G.M. Nahata, Aged About 61 Years, R/o Gangashri 10,
Vardhaman Nagar, Rajnandgaon, District Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur, Chhattisgarh
2. Deputy Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur District Raipur, Chhattisgarh.
3. Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur District Raipur, Chhattisgarh
4. Collector, Mahasamund, District Mahasamund, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Manoj Paranjpe, Advocate
For State	:	Ms. Sunita Jain, G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/09/2020**

1. The challenge in the present writ petition is to the legality and validity of the order dated 24.08.2017 passed by the General Administration Department whereby the petitioner has been placed under compulsory retirement.

2. The brief facts relevant for the adjudication of the present writ petition is as under:-

The petitioner was initially appointed as an Assistant Superintendent of Land Records (ASLR) on 30.08.1979. In due course of time, on account of services of the petitioner being satisfactory, the petitioner got promoted to the post of Superintendent of Land Records in the year 1988. Down the line, considering the meritorious service of the petitioner and also his seniority, he was also promoted further as a Deputy Collector in the year 2004 and again as a Joint Collector in the year 2006. The petitioner had put in around 37 years of service under the respondents. Abruptly vide the impugned order dated 24.08.2017 the petitioner was served with an order of compulsory retirement with immediate effect. The only reason assigned in the impugned order was that the said order was invoking the provisions of Clause 2-A of Fundamental Rules, 1956 read with Sub-rule 1-B of Rule 42 of the Chhattisgarh Civil Services Pension Rules, 1976.

3. The challenge in the impugned order is on the ground that there was absolutely no materials available with the respondents for placing the services of the petitioner under compulsory retirement. According to the petitioner, the periodical timely promotion orders issued in favour of the petitioner from time to time right from the stage of Assistant Superintendent of Land Records to the stage of Joint Collector itself would show that the petitioner's services were not in any manner unsatisfactory or non-meritorious and the

impugned order therefore since it is without any cogent sufficient reasons and grounds, the same deserves to be interfered with.

4. The second ground raised by the petitioner is that the impugned order was taken in the light of a policy decision of the State Government, whereby the General Administration Department had issued a circular dated 25.04.2017 laid down certain procedures and criteria under which an employee/officer of the State Government was to be considered whether he was fit for being placed under compulsory retirement. According to the petitioner, there is a clear non-compliance of the instructions and guidelines issued by the State Government in the said circular and for these reasons also the impugned order of compulsory retirement is not sustainable.
5. According to the petitioner, the impugned order is also required to be interfered for the reason that even otherwise the petitioner had only around 10 months of service left for superannuation and as such there was no urgent need or an administrative exigency which arose for compulsorily retiring the petitioner.
6. The counsel for the petitioner referring to the rejoinder that he had filed to the reply of the State Government has produced the ACRs of the previous many years and where it could be clearly reflected that the petitioner's ACRs for the last 20 years would show that most of the year the grading obtained by the petitioner was either 'Good' or 'Excellent' and except for the year 2008 and for the five months of year 2016 where he was graded 'Average' the petitioner's ACRs have never been below 'Good'. Thus, the action

on the part of the respondents again is in clear conflict with the instructions issued by the State Government vide their circular dated 25.04.2017.

7. The counsel for the petitioner submits that the only blot in his service career was an alleged criminal case in which he was implicated i.e. Special Case No. 7/2013, wherein the petitioner has been falsely charged for the offence punishable under Section 13(2) of the Prevention of Corruption Act. According to the petitioner, the said criminal case finally led to the honourable acquittal of the petitioner vide judgment dated 12.09.2017. According to the petitioner, merely getting implicated in a criminal case cannot be a ground for placing the petitioner under compulsory retirement. The counsel for the petitioner relied upon the judgments of the Hon'ble Supreme Court in the case of **“State of Gujarat & Another v. Suryakant Chunilal Shah” (1999) 1 SCC 529**, **“State of Gujarat v. Umedbhai M. Patel” (2001) 3 SCC 314**, **“S.C. Tania v. State of M.P.” (2008) 4 MPLJ 605**, **“State of M.P. v. Laxmi Chand Awadhiya & Another” (2002) 4 MPLJ 343** in support of his contention.
8. Per contra, the learned counsel appearing for the State opposing the petition submits that the decision of the respondents to place the petitioner under compulsory retirement was a conscious decision. According to the State counsel, the State Government in terms of the circular dated 25.04.2017 evaluated the service records of the petitioner and in the course they took note of the criminal case that he was implicated in and also the ACR of the

year 2017 where the integrity of the officer was suspected to be doubtful. According to the State counsel, merely because the petitioner has been acquitted from the criminal case by itself cannot be a ground to hold that the petitioner was meritorious. According to the State counsel, considering the overall assessment of the petitioner, it was decided by the authorities to impose compulsory retirement on the petitioner and as such the same cannot be held to be in any manner arbitrary or malafide.

9. According to the State counsel, the object behind the circular dated 25.04.2017 of the State Government was to ensure that inefficient and corrupt officers need not be continued in the employment and therefore, the decision does not warrant any interference. The State counsel further submits that it is a case where the judgment of acquittal in the criminal case in which the petitioner was implicated was pronounced after the impugned order of compulsory retirement, therefore the judgment of acquittal would not have much force while deciding the veracity of the order of compulsory retirement passed before the judgment of acquittal.
10. Having heard the contentions put forth on either side and on perusal of record, the admitted factual matrix of the case is that the petitioner was initially appointed in the year 1979 as an Assistant Superintendent of Land Records. In due course of time, the petitioner has been getting periodical promotions and the petitioner first got promoted as a Superintendent of Land Records, then as a Deputy Collector and lastly as a Joint Collector. From the perusal of the Annexure P/11 enclosed along with the writ petition, the

gradings provided by the Department in the ACRs of the petitioner is reflected, which for ready reference is reproduced herein under:-

जी.सी. नाहटा के सम्पूर्ण सेवाकाल दिनांक 30.08.1979 से 24.08.2017 तक
वार्षिक गोपनीय प्रतिवेदन आधारित '

‘श्रेणीकरण’

वर्ष	श्रेणी	वर्ष	श्रेणी
1980	कोई टीप नहीं	2000	क
1981	ख	2001	क
1982	क	2002	क
1983	कोई टीप नहीं	2003	क
1984	ग	2004	क
1985	ग	2005	क
1986	ख	2006	ख
1987	ख	2007	क
1988	ग	2008	ग
1989	ग	2009	ख
1990	क	2010	ख
1991	क	2011	निलंबित
1992	ख	2012	निलंबित
1993	क	2013	निलंबित
1994	ख	2014	क
1995	ख	2015	क
1996	ग	2016	क
1997	क	01.04.2016 to 30.09.2016	ग
1998	क	01.10.2016 to 31.03.2017	क
1999	क		

11. From the aforesaid documents, it would clearly reflect that the gradings in ACRs of the petitioner except for a few years, all being either 'Very Good' and 'Good' and a few years it has been 'Average' and when the gradings of the last 20 years are seen, it will reveal that except for two gradings of 'Average' that to for the year 2008 and for a few months of 2016 all the gradings which the petitioner got was either 'Outstanding', 'Very Good' or 'Good'.

12. From the pleadings that has been made by the State counsel and from the reply that has been given by the respondents, the only reason or ground available for placing the petitioner under compulsory retirement available in the record seems to be implication of the petitioner in the criminal case and for which he was suspended for sometime, thereafter the suspension was revoked and the petitioner was permitted to resume his duties and which he was discharging effectively till the impugned order of compulsory retirement was passed.

13. At this juncture, it would be relevant to take note of the judgment of the Hon'ble Supreme Court in the case of **“State of Gujarat & Another v. Suryakant Chunilal Shah” (1999) 1 SCC 529**, wherein in paragraph No.27 the Hon'ble Supreme Court has held as under :

“27. The whole exercise described above would, therefor, indicate that although there was no material on the basis of which a reasonable opinion could be formed that the respondent had outlived his utility as a Govt. Servant or that he had lost his efficiency and had become a dead wood, he was compulsorily retired merely because of his involvement in two criminal case pertaining to the grant of permits in favour of take and bogus institutions. The involvement of a person in a criminal case does not mean that he is guilty. He is still to be tried in a court of law and the truth has to be found out ultimately by the court where the prosecution is ultimately conducted. But before that stage is reached, it would be highly improper to deprive a person of his livelihood merely on the basis of his involvement. We may, however, hasten to add that mere involvement in a criminal case would constitute relevant material for compulsory retirement or not would depend upon the circumstances of each case and the nature of offence allegedly committed by the employee.”

14. Dealing with the same topic and reiterating the stand the Hon'ble Supreme Court again in the case of **“State of Gujarat v. Umedbhai M. Patel”** reported in **(2001) 3 SCC 314** after referring to various judicial pronouncements on the field of compulsory retirement in paragraph No.12 concluded as under :

“12. In the instant case, there were absolutely no adverse entries in respondent's confidential record. In the rejoinder filed in this Court also, nothing has been averred that the respondent's service record revealed any adverse entries. The respondent had successfully crossed the efficiency bar at the age of 50 as well 55. He was placed under suspension on 22.5.1986 pending disciplinary proceedings. The State Govt. had sufficient time to complete the enquiry against him but the enquiry was not completed within a reasonable time. Even the Review Committee did not recommend the compulsory retirement of the respondent. The respondent had only less than two years to retire from service. If the impugned order is viewed in the light of these facts, it could be said that the order of compulsory retirement was passed for extraneous reasons. As the authorities did not wait for the conclusion of the enquiry and decided to dispense with the services of the respondent merely on the basis of the allegations which had not been proved and in the absence of any adverse entries in his service record to support the order of compulsory retirement, we are of the view that the Division Bench was right in holding that the impugned order was liable to be set aside. We find no merit in the appeal, which is dismissed accordingly. However, three months' time is given to the appellant-State to comply with the directions of the Division Bench, failing which the respondent would be entitled to get interest at the rate of 18% for the delayed payment of the pecuniary benefits due to him.”

15. The High Court of Madhya Pradesh also had the occasion of dealing with a similar circumstance case of “**State of M.P. v. Laxmi Chand Awadhiya & Another**” (2002) 4 MPLJ 343 considering all the judicial precedents on the subject in paragraph No. 20 held as under :

“20. We have referred to the aforesaid decision in extenso because we are of the considered view that if charge-sheets had been issued to a person and his A.C.Rs, are good and nothing has happened for a period of fourteen years that may not be justifiable ground to compulsorily retire him. We may proceed to add that there is no other material on record except the initiation of departmental proceedings. It is not the case of the State that there are adverse entries or any other aspect which makes it necessary to pass an order on compulsory retirement as the same is warranted in public interest. It is also not the case of State that at any point of time any communication was made to the respondent No. 1 with regard to his integrity. Thus, we set aside the order of compulsory retirement and direct that the respondent shall be reinstated within a period of three months from today. As far as the consequential benefits are concerned, the respondent No. 1 shall be entitled to get fifty per cent of the back wages. We would not like to comment anything with regard to the justifiability of the initiation of the departmental proceedings. It will be open to the department to proceed in the departmental proceedings which have been initiated and finalise the same as per law.”

16. A similar view was again reiterated by the Madhya Pradesh High Court in yet another case reported in **(2008) 4 MPLJ 605** in the case of **“S.C. Tania v. State of M.P.”** referring to the issue which is reflected in paragraph No.6 and so far as the ratio is concerned, in paragraphs No. 12 to 15 held as under:

“6. In view of the aforesaid undisputed facts, the only question that remains for adjudication is as to whether the petitioner could have been compulsorily retired from service only in view of the pendency of a departmental enquiry and a criminal case against him and whether pendency of departmental enquiry and criminal case against an employee would justify his compulsory retirement in public interest or would render him dead wood for the purposes of government service.

12. From a perusal of the aforesaid judgments of the supreme Court, it is clear that in cases where the service record of an employee is good but he is compulsorily retired only on account of pendency of departmental proceedings and criminal cases against him, the order of compulsory retirement would not be an innocuous order in public interest but would in substance acquire the character of being a punitive order passed for collateral purposes with a view to immediately remove the employee by circumventing the procedure prescribed by law. The same view has been taken by a Division Bench judgment of this Court in the case of *State of M. P. v. Laxmi Chand awadhiya*, 2002 (4) MPLJ 343 wherein this Court quashed the order of compulsory retirement which was passed only on the basis of pendency of departmental enquiries and criminal proceedings through the service record of the employee was good.

13. In the present case as the service record of the petitioner is very good and he has been compulsorily retired only on account of pendency of a departmental enquiry and a criminal case against him which, even otherwise, have undisputedly ended in his exoneration and acquittal, respectively, during the pendency of the present petition, the impugned order of compulsory retirement, not being justified on the basis of the service record, amounts to perverse and illegal exercise of power under F. R. 56 (3) and is punitive and, therefore, the impugned order dated 6-1-2000 deserves to be and is hereby quashed in view of the law laid down by the Supreme Court in the aforementioned judgments.

14. In the present case as is seen from a perusal of the record, the petitioner was initially compulsorily retired without proper application of mind and, therefore, the order was quashed and the matter was remitted back for re-examination of his case and all other similar cases by a review screening committee. Thereafter, the respondents have again compulsorily retired the petitioner by the impugned order without applying their mind to the service record of the petitioner which on the face of it, does not

warrant his compulsory retirement as has been held by me in the preceding paragraph and, therefore, the petitioner has been prevented from performing his duties and kept out of service for no fault of his and as a result of which he has been deprived of his legitimate salary and other benefits which he would have enjoyed had the impugned order not been passed repeatedly by the respondent-authorities without applying their mind in spite of orders by the Court.

15. In view of the aforesaid peculiar circumstances existing in the present case, I am of the considered view that as a consequence of quashing of the impugned order of compulsory retirement the petitioner would be deemed to have been in service till the age of his superannuation and would also be entitled to and is hereby granted full back wages for the period during which he was kept out of service, revised pension and all other consequential benefits.”

17. The plain perusal of the entries made in the ACRs of the past years would reveal that the petitioner has exceptionally “Good’ entries in the ACRs and that there was absolutely nothing adverse. It is in these circumstances that the judicial pronouncements on the issue of compulsory retirement as laid down by the Hon'ble Supreme Court from time to time is required to be considered.
18. So far as law in respect of compulsory retirement is concerned, the Supreme Court as early as in **1998(7)SCC 310 in case of M.S. Bindra Vs. Union of India & Ors.** in paragraph 13 held as under :

“13. While viewing this case from the next angle for judicial scrutiny i.e. want of evidence or material to reach such a conclusion, we may add that want of any material is almost equivalent to the next situation that from the available materials no reasonable man would reach such a conclusion. While evaluating the materials the authority should not altogether ignore the reputation in which the officer was held till recently. The maxim “Nemo Firut Repente Turpissimus” (no one becomes dishonest all on a sudden) is not unexceptional but still it is a salutary guideline to judge human conduct, particularly in the field of Administrative Law. The authorities should not keep the eyes totally closed towards the overall estimation in which the delinquent officer was held in the recent past by those who were supervising him earlier. To dunk an officer into the puddle of “doubtful integrity” it is not enough that the doubt fringes on a mere hunch. That doubt should be of such a nature as would reasonably and consciously be entertainable by a reasonable man on the given material. Mere possibility is hardly sufficient to assume that it would have happened. There must be preponderance of probability

for the reasonable man to entertain doubt regarding that possibility. Only then there is justification to ram an officer with the label "doubtful integrity".

19. The Supreme Court in the case of **National Aviation Company of India Limited Vs. S. M. K. Khan** reported in **2009 (5) SCC 732**, in paragraphs-13 to 16 has held as under:-

“13. An order of compulsory retirement in pursuance of a rule/regulation which enables the competent authority to prematurely retire an employee, on the formation of a bona fide opinion that continuation of the employee in service will not benefit the institution or be in the interest of the institution (or will not be in public interest where the employee is a government servant), on review of the performance/service record of the employee, on the employee attaining the specified age or completing the specified period of service, is valid and not open to challenge. It is neither a punishment nor considered to be stigmatic. Where the compulsory retirement, is not by way of punishment for a misconduct, but is an action taken in pursuance of a valid condition of service enabling the employer to prepone the retirement, the action need not be preceded by any enquiry and the principles of natural justice have no application.

14. The unsatisfactory service of the employee which may include any persistent misconduct or inefficiency furnishes the background for taking a decision that the employee has become a dead wood and that he should be retired compulsorily. Such 'compulsory retirement' is different and distinct from imposition of a punishment of compulsory retirement (or dismissal/removal) on a specific charge of misconduct, where the misconduct is the basis for the punishment. The difference is on account of two factors : Firstly, the employee on account of completing a particular age or number of years of service falls within the zone where his performance calls for assessment as to whether he is of continued utility to the employer or has become a deadwood or liability for the employer. Secondly, the record of service, which may include poor performance, unsatisfactory service or incidentally any recent conduct (which if separately considered may constitute a misconduct subject to punishment) when considered as a whole, leads the Reviewing Authority to the conclusion that the employee in question is not fit to be continued in service and not of utility to the employer. Therefore, any incidental reference to unsatisfactory service, or any remarks in the context of explaining the reason for compulsory retirement under the relevant rule, in the letter of compulsory retirement will not be considered as stigmatic, even though read out of context, they may be capable of being construed as allegations of misconduct.

15. Any order of compulsory retirement in terms of the rule/regulation providing for such compulsory retirement is not open to interference unless shown to be malafide or arbitrary or not based on any background material at all relating unsatisfactory service justifying the premature retirement.

16. When an order of compulsory retirement purports to be one under the rule/regulation providing for such premature retirement, the proper approach of the court would be to consider whether the order is sustainable with reference to the requirements of the relevant rule, rather than examining whether the order could also be construed as a punishment for misconduct -- vide Baikuntha Nath Das v. Chief District Medical Officer [1992 (2) SCC 299], Allahabad Bank Officers' Association v. Allahabad Bank [1996 (4) SCC 504], I.K.Mishra v. Union of India [1997 (6) SCC 228], State of Uttar Pradesh v. Lalsa Ram [2001 (3) SCC 389] and M. L. Binjolkar vs. State of Madhya Pradesh [2005 (6) SCC 224].”

20. It cannot be disputed that for passing an order of compulsory retirement, there has to be a subjective satisfaction of the competent authority and the competent authority should take a decision on the basis of cogent material available on record. So far as the scope of interference is concerned, unless it is shown that the order of compulsory retirement was passed arbitrarily and without application of mind or that the formation of opinion to retire compulsorily was based on no evidence or that the order of compulsory retirement was totally perverse, the Court cannot as a matter of routine interfere with an order of compulsory retirement.
21. The Supreme Court in case of **Madhya Pradesh State Cooperative Dairy Federation & Anr. Vs. Rajnesh Kumar Jamindar & Ors. 2009(15)SCC 221**, referring to all the previous decisions on the issue in paragraph 35 has summarized or laid down the situations under which the order of compulsory retirement could be interfered with, held as under :

“35. The law relating to compulsory retirement in public interest is no long res integra. The provisions had been made principally for weeding out dead wood. An order of compulsory retirement being not penal in nature can be subjected to judicial review inter alia :

- i. when it is based on no material;
- ii. when it is arbitrary ;
- iii. when it is without application of mind; and

iv. when there is no evidence in support of the case.”

38. In Pritam Singh v. Union of India & Ors. [(2005) 9 SCC 748], this Court held:

13. In our opinion, the High Court has committed an error in not interfering with the punishment of compulsory retirement even though the appellant submitted that the misconduct alleged against him was not at all an offence or even a serious mistake. The act of misconduct alleged against him was that he supplied a list of absentee details to one of the employees, who was fighting a case before the Tribunal against the Railways. This list contained the ticket numbers of the workers of a shop, who were absent on that date. This was neither a confidential document nor a privileged document. It contained details to which the employee concerned had a right of information. The appellant being a Superintendent Grade II and in charge of the information acted bona fide in good faith while supplying the information. In our opinion, this kind of an act was neither a misconduct nor a serious mistake. When the charges were found proved against the appellant, the appellant admitted that he had supplied the absentee details.

22. On going through the aforesaid observations of the Supreme Court, it clearly gives the broad parameters and guidelines which ought to have been complied with by the Department before placing an employee/officer on compulsory retirement.
23. Likewise, the Supreme Court again in the case of **Nand Kumar Verma Vs. State of Jharkhand and others** reported in **2012 (3) SCC 580** in paragraph-34 has given a broad outline as to the entries which would be relevant for the purpose of formation of an opinion before placing an employee/officer for compulsory retirement. For ready reference paragraph-34 of the said judgment is reproduced hereinunder:

“34. It is also well settled that the formation of opinion for compulsory retirement is based on the subjective satisfaction of the concerned authority but such satisfaction must be based on a valid material. It is permissible for the Courts to ascertain whether a valid material exists or otherwise, on which the subjective satisfaction of the administrative authority is based. In the present matter, what we see is that the High Court, while holding that the

track record and service record of the appellant was unsatisfactory, has selectively taken into consideration the service record for certain years only while making extracts of those contents of the ACR's. There appears to be some discrepancy. We say so for the reason that the appellant has produced the copies of the ACR's which were obtained by him from the High Court under the Right to Information Act, 2005 and a comparison of these two would positively indicate that the High Court has not faithfully extracted the contents of the ACRs. ”

24. Recently again in case of **Rajasthan State Road Transport Corporation and Ors. Vs. Babu Lal Jangir, 2013 (10) SCC 551**

the Supreme Court in paragraphs 23 & 24 held as under:

“23. The principle of law which is clarified and stands crystallized after the judgment in *Pyare Mohan Lal v. State of Jharkhand and Ors.*; 2010 (10) SCC 693 is that after the promotion of an employee the adverse entries prior thereto would have no relevance and can be treated as wiped off when the case of the government employee is to be considered for further promotion. However, this ‘washed off theory’ will have no application when case of an employee is being assessed to determine whether he is fit to be retained in service or requires to be given compulsory retirement. The rationale given is that since such an assessment is based on “entire service record”, there is no question of not taking into consideration an earlier old adverse entries or record of the old period. We may hasten to add that while such a record can be taken into consideration, at the same time, the service record of the immediate past period will have to be given due credence and weightage. For example, as against some very old adverse entries where the immediate past record shows exemplary performance, ignoring such a record of recent past and acting only on the basis of old adverse entries, to retire a person will be a clear example of arbitrary exercise of power. However, if old record pertains to integrity of a person then that may be sufficient to justify the order of premature retirement of the government servant.

24. Having taken note of the correct principles which need to be applied, we can safely conclude that the order of the High Court based solely on the judgment in the case of *Brij Mohan Singh Chopra* was not correct. The High Court could not have set aside the order merely on the ground that service record pertaining to the period 1978-90 being old and stale could not be taken into consideration at all. As per the law laid down in the aforesaid judgments, it is clear that entire service record is relevant for deciding as to whether the government servant needs to be eased out prematurely. Of course, at the same time, subsequent record is also relevant, and immediate past record, preceding the date on which decision is to be taken would be of more value, qualitatively. What is to be examined is the “overall performance” on the basis of “entire service record” to come to the conclusion as to whether the concerned employee has become a deadwood and it is public interest to retire him compulsorily. The Authority must consider and

examine the overall effect of the entries of the officer concerned and not an isolated entry, as it may well be in some cases that in spite of satisfactory performance, the Authority may desire to compulsorily retire an employee in public interest, as in the opinion of the said authority, the post has to be manned by a more efficient and dynamic person and if there is sufficient material on record to show that the employee “rendered himself a liability to the institution”, there is no occasion for the Court to interfere in the exercise of its limited power of judicial review.”

25. Based on the aforesaid legal principles and the ratio laid down by the Supreme Court in the catena of judgments what calls out broadly is that while passing an order of compulsory retirement, there has to be overall assessment of the entire service record of the petitioner/employee which should be taken note of by the Department. One stray incident cannot be a deciding factor for placing an employee/officer under compulsory retirement, the same cannot by itself lead to an inference to be drawn by the Department to hold that the honesty and integrity of the petitioner is doubtful. Thus, the assessment made by the department cannot be said to be proper, legal and justified and the same also cannot be said that there was subjective satisfaction of the authorities before formation of an opinion for placing the petitioner under compulsory retirement. The impugned order dated 24.08.2017, therefore, in the opinion of this Court is not sustainable and the same deserves to be and is accordingly set aside/quashed.
26. Consequently, the impugned order of compulsory retirement being set-aside/quashed, the petitioner has to be treated to have been taken back in service from the date the impugned order was passed, till the petitioner has attained the age of superannuation on 30.06.2018 and the petitioner shall be paid the consequential benefits, if any, so far as his retiral dues are concerned. However,

for the period between the date of compulsory retirement and the date of retirement, the petitioner shall only be entitled for notional fixation of his salary. Monetary benefits shall flow only after the retirement of the petitioner. However for the purpose of settlement of his retiral benefits the petitioner is entitled for the difference of amount if any after adjusting the amount received by him, the same shall be released forthwith.

27. The writ petition accordingly stands allowed. No order as to costs.

Sd/-
(P. Sam Koshy)
Judge

Ved